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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,362	01/14/2004	Gina Dellanina	9482a	3318
21905	7590	12/14/2005	EXAMINER	
CONNORS ASSOCIATES 1600 DOVE ST SUITE 220 NEWPORT BEACH, CA 92660				LEWIS, RALPH A
		ART UNIT		PAPER NUMBER
				3732

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

TAK

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/757,362	DELLANINA	
	Examiner	Art Unit	
	Ralph A. Lewis	3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-20 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 18-20 is/are allowed.
- 6) Claim(s) 1-17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 14 January 2004 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/26/2004.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

### **Objection to the Drawings**

The drawings are objected to under 37 CFR 1.84 (i) and (p) as being informal.

The lines, numbers and letters lack uniformity and are fuzzy lacking sharp definition.

No new matter should be entered.

Replacement drawings are required. The objection to the drawings will not be held in abeyance.

### **Rejections based on Prior Art**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 7-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Bull (US 5,732,862).

Bull discloses a dental hygiene device comprised of a cup 10 holding a tooth polishing material. The cup member includes a bottom with outwardly projecting attachment member 18. The device is molded of plastic (column 2, lines 30-34) and attachment member 18 includes a pair of spaced apart fingers 28a and 28b for engaging a support. The cup member includes enough material for a single use and the top includes a removable seal (note column 2, lines 3-8). Bull discloses that the attachment member be used for securing the cup to a user's finger, however, it is noted

that it is capable of being attached to a suction tube. The particular object which applicant intends for the cup to be attached to fails to impose any objectively ascertainable structural distinctions between applicant's claimed cup and that disclosed by Bull.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 5, 6, 9, 13, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bull (US 5,732,862).

In regard to claims 5, 9, and 13, Bull discloses that the cup member includes enough material for a single use and it was assumed in the rejection above that this meets the .05-.1 cubic inch volume limitation for the cup. To the extent that it does not, one of ordinary skill in the art would have found it obvious to have provided for such a volume in order that the cup may hold an appropriate amount of material.

In regard to claim 6, bull fails to explicitly state that the polishing material includes abrasives. To have selected a conventional polishing material for use with the Bull would have been obvious to the ordinarily skilled artisan.

In regard to claims 16 and 17, the particularly claimed range of dimensions would have been obvious to one of ordinary skill in the art as a matter of routine in practicing the Bull invention.

### **Allowable Subject Matter**

Claims 18-20 are allowed.

### **Prior Art**

Weldon (US2 2,665,479), Malm (US 3,327,391), Porteous (US 4,717,057), Porteous (US 5,016,795), Moreschini (us 5,048,731), Bull (US 5,112,227) and (US 5,169,315), Segerdal (US 5,441,410) and Muller are made of record.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(571) 272-4712**. Fax (571) 273-8300. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Kevin Shaver, can be reached at (571) 272-4720.

R.Lewis  
December 10, 2005

  
Ralph A. Lewis  
Primary Examiner  
Art Unit 3732